

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KEVIN LEVONN KENNEY,

Plaintiff,

v.

No. CV 14-0315 JH/WPL

JASON BROWN, et al.,

Defendants.

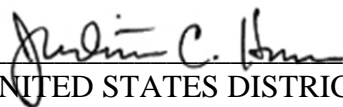
MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's post-judgment Motion to Reopen (Doc. 53) filed by counsel on April 9, 2015. The Court dismissed Plaintiff's complaint with prejudice under 28 U.S.C. § 1915(e)(2) and rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim under § 1983. As grounds for reopening the action, Plaintiff alleges that he has retained a lawyer and "now has 'the guiding hand of counsel' to assist [him] in navigating the judicial process." He asserts that his counsel has drafted an amended complaint and he will pay the statutory filing fee.

A court evaluates a motion to reopen under the standards for relief in rule 60(b) of the Federal Rules of Civil Procedure. *See Burns v. C.I.A.*, No. 93-5153, 1994 WL 36770, at *1 (10th Cir. Feb. 8, 1994) (construing a motion to reopen as a rule 60(b) motion). Grounds for relief under rule 60(b) include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud, void judgment, satisfaction of judgment, and any other reason that justifies relief. *See Fed. R. Civ. P.* 60(b)(1), (2), (3), (4), (5), (6). "[M]otions considered under Rule 60(b) must be shaped to the grounds 60(b) lists as possible bases for relief. Such motions cannot be mere general pleas for relief." *Helm v. Resolution Trust Corp.*, 43 F.3d 1163, 1167 n. 2 (7th Cir. 1995).

Because the Court dismissed Plaintiff's complaint for failure to state claims for relief, the allegations that he intends to file an amended complaint and pay the filing fee do not amount to grounds for the relief he seeks. The Court will deny Plaintiff's motion to reopen this action.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Reopen (Doc. 53) filed on April 9, 2015, is DENIED.


UNITED STATES DISTRICT JUDGE